MF.71(c)—2,006—26-1-43.

1944.

Department of Revenue.

OFFICE Board of Revenue.

STATION Madras

B.P. Misc No. 853

1 1/2

A 6781/44

Dated 18-5-1944

MAY 1944

Pages in the file.

SUBJECT.

Suits - (South-Kanara) - putturdistrict Munsiffs Court - Electoral rolls, 1937 - area of printing charges - suit filed by Manager Harihara Press, putturi - Filing of awkappeal papers recorded

C.F. 71 (a)

Back Papers.

Dis.	No.	Department / Series.	Date.	Dis.	No.	Department / Series.	Date.
[redacted]							
Lord A 3579/41 closed 28-9-41							

Further Papers.

Dis.	No.	Department / Series.	Date.	Dis.	No.	Department / Series.	Date.

Ref.A3-841-44. VII

From H. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

To The Secretary, Board of Revenue,
Land Revenue & Irrigation, Madras.

South Kanara Collector's Office,
Mangalore, dated 9-3-1944.

Sir,

SUBJ - Puttur Dt. Munsiff's Court - O.S.180/41 - Election - Electoral rolls - Suit against Government - Filing of an appeal - Report submitted.

The above suit, the defence of which was sanctioned in G.O.2051 dated 18-9-1941 communicated with B.P. I.Dis.No.2579-41, dated 22-9-41, has been partly decided against Government. Please see copies of judgment and decree enclosed.

2. The main points for decision were whether the payment of printing charges to be subjected to the approval of the work by the Superintendent, Government Press and whether the printer's claim subject to the scrutiny of the Government Press. These issues have been decided against Government on the ground that though under the rules in the Madras Election Manual and in the Printing Manual, the Superintendent, Government Press as the person who is to pay has a right to scrutinise the bills of private persons, yet the plaintiff in this case is unaffected by these rules, as they had not been made part of the contract, both the Manuals being meant only for official guidance. On this footing the District Munsiff has held on issue III, IX, X and XI that the Plaintiff can claim that the scrutiny by the Government Press may be passed in Court.

3. The Plaintiff's claim had been disallowed by the Superintendent, Government Press under the following 8 heads:-

(1) Shortage in the quantum of printed matter as a result of mostly wrong counting by mingling claims pertaining to different type sizes and to the absence of discrimination between double column and single column printing.

(2) Excessive charge in respect of alteration of headings to electoral rolls of local bodies.

(3) Folding once and twice sheets of 4 pages per 100 sheets.

(4) Gathering and collating charges of 5 sheets and above of 4 pages.

(5) Paper cover stitching charges.

(6) Cutting charges;

(7) Claim for objection statement and heading slips to Kasaragod Taluk; and

(8) Contingent charges.

The Dt. Munsiff has held the disallowance to be correct in respect of items (1), (3), (4), (6) and (8) amounting to Rs.240-12-10, but improper in respect of the other items amounting to Rs.314-10-10.

4. With regard to item(2), the Dt. Munsiff finds that it was not a mere case of alteration of the headings only, but that the Plaintiff had to do resetting and inserting the headings without changing columns. This claim is allowed because there were no rates fixed by the Government for this work on the date of this contract and that the Revenue Divisional Officer who entered into the contract with the Plaintiff has certified that the claim is correct and that therefore the claim should be treated as one in respect of which there was a special contract

P.T.O.

or one in which the party that ordered the work later on agreed to give the rate claimed by the Printer. In respect of item (5) also the ground for allowing the claim is the same, viz., that the Revenue Divisional Officer had said that he would have it separately paid for. Concerning item (7) the question was whether the Plaintiff had submitted specimen copies of all the rolls and the District Munsiff finds that he had.

5. The local pleader for Government recommends the filing of an appeal on 3 points:- First with regard to item (2), though no Government rate had been prescribed for this at the time of the contract, the Government Pleader says that the main bases of the contract being Government rates, the Court ought to have allowed only Re.0-2-0, the rate fixed by the Government subsequently. With regard to item (5), the Pleader for Government says that the charges allowed are too high. Lastly the P.G. opines that the allowing of interest from 1-7-1938 the date of demand of the excess amount is unwarranted and that it should have been allowed only from 24-1-41, the date when the demand for interest was first made in the registered notice. The Government Pleader, Mangalore in his letter dated 6-3-44 does not agree with the P.G. I am inclined to agree with him that the reasoning in the judgment cannot be attacked and therefore no appeal need be filed.

6. Copies of the judgment and decree as also of the letter of the Pleader for Government, Puttur and Government Pleader, Mangalore, are enclosed.

7. As the appeal time expires on 18-3-1944, orders may be communicated to me by wire.

For Collector.

9.3.44

knr/9.3.

In the Court of the District Munsif of Puttur, South Kanara.

Present: Sri D.R. Venkatesa Iyer, B.A., M.L.
Thursday, the 23rd Day of December 1943.
Original Suit No.180 of 1941.

H. Subraya Kamath, son of H. Ganapathi Row, Manager of the Hari Hara Press at Puttur, residing in Puttur village, Puttur Taluk, Puttur Post, South Kanara — Plaintiff.

The address for service of all processes and notices on the plaintiff is as stated above.

against.

The Province of Madras, represented by the Collector of South Kanara District, Mangalore Post. — Defendant.

Suit to recover from the defendant a sum of Rs.743.9.0 being the unpaid price of printing the Electoral Rolls for the year 1937 inclusive of interest thereon and cost of lawyer's notice.

The relief claimed is valued at Rs.743.9.0. The cause of action for the suit is stated to have arisen since 1.3.1938 in Puttur, within the jurisdiction of this Court. The plaint was presented on 2.6.1941.

Decree:- This suit coming on Tuesday, the 21st day of December 1943, for final disposal before me, in the presence of Sri H. Ganapathi Row, Vakil for the plaintiff, and of Sri B. Shivarama Holla, Advocate for the defendant, and having stood over ~~the~~ for consideration till this day, this Court doth order and decree

1. That the defendant do pay to the plaintiff (i) a sum of Rs.371.5.3 allowed, (ii) interest on Rs.314.10.10 at the rate of 6 per cent per annum from 2.6.1941 (date of plaint) till payment and (iii) Rs.56.5.7 on account of his proportionate costs of this suit, with interest thereon at the rate of 6 per cent per annum from this date till payment.

2. That the plaintiff do pay to the defendant a sum of Rs.22/- being its proportionate costs of this suit on the amount disallowed to the plaintiff and

3. That the defendant be, and hereby is, granted three months' time from this date for payment of the amount decreed against it.

Costs of Suit.

Plaintiff's	Amount. Rs.	as.	ps.	Defendant's	Amount. Rs.	as.	ps.
1. Stamp for plaint.	84	5	0	1. Stamp for petitions.	6	0	0
2. Do. Vakalatnama	1	0	0	2. Do. Vakalatnama	0	0	0
3. Do. exhibits.		-		3. Do. exhibits.	0	0	0
4. Do. petitions.	4	8	0	4. Translation fee.	0	0	0
5. Translation fee.		-		5. Service for process.	0	8	0
6. Service of process.	0	8	0	6. Subsistence for witnesses for attendance.	0	0	0
7. Subsistence for witnesses for attendance.		-		7. Commissioner's fee.	0	0	0
8. Commissioner's fee.				8. Pleader's fee on Rs.743/-	37	2	5
9. Pleader's fee on Rs.743/-(as certified).	22	0	0				
10. Process writing fees.	0	4	0				
Total:	112.	9.	0	Total:	43.	10.	5

4/

Given under my hand and the seal of the Court, this Twenty third day of December 1943.

Sd/- D.R. Venkatesa Iyer,
District Munsif.

N.B.- The parties should apply as soon as possible for the return of all the exhibits which they may wish to preserve as the record will be liable to be destroyed after three years or after six years from this date according to the nature of exhibit under the rules for the destruction of records.

Sd/- xx xx xx xx xx
Examiner

(True Copy)

Narasimha Rao
For Collector. 3.44

9.3.43
4/1

Copy of letter dated 20-2-1944 to the Collector of South Kanara - from B.S.Mella, Pleader for Government, Puttur.

Ref: A-3/841-42 dated 27-1-1944.

Suit - Dt.Munsiff's Court - O.S.No.180/41 - Records submitted.

The printed copies of judgment and decree obtained by me for purposes of appeal and the connected papers, the file and a copy of the printing manual are herewith sent.

The points for appeal are:-

(1) Para 11 of the Judgment - Alteration of headings:

Although there was no Government rate prescribed for this heading at the time of the contract, the Government had to fix the rates for this piece of work on account of events subsequent. The main basis of the contract is Government rates, the plaintiff is bound to accept that rate. The court therefore ought to have allowed at 2 annas which is the Government rate. The Court went wrong in holding that the certificate of the Rev.Divl.Officer is final as regards the rate. The certification cannot over-rule the Government rates.

(2) The charges allowed for paper cover, stitching charges are too high - and not in accordance with Government rates.

(3) The award of interest from 1st July 1938 is unwarranted. The 1st demand for interest was made on 24-1-1941, viz., Registered suit-notice. There is no justification for award of interest prior to that date in any event.

I think an appeal may be filed on the above points.

On being informed if my presence is necessary to give instruction to the Government Pleader at Bangalore I shall come over to him.

The time for filing appeal expires on 18-3-1944.

The records of the case are herewith submitted.

/True copy/

Narasimha Rao
For Collector.B

24-2-44

Copy of letter - Ref.No.A. 113/44 dated 6-3-1944 from the Govt. Pleader, Mangalore to the Collector of South Kanara.

SUITS - Puttur Dt.Munsiff's Court - O.S.No.180/41 - Electoral Rolls, 1937 - Arrears of printing charges - Claims of the Harihara Press at Puttur - Adverse decree - Appeal - Opinion intimated.

x x x x

Refce: Ref.A-3/841-44 dated 23-2-1944.

x x x x

The points raised by the pleader for Government are dealt by me seriatum.

1. At the time of the contract there were no Government rates for beddings. A contract entered into today cannot obviously be governed by rates to be prescribed on a future day unless that was a term of the contract. Here no such stipulation is proved. The Rev.Divl.Officer who entered into the contract has certified as to the correctness of the rate claimed. The reasoning in the judgment cannot be attacked.

2. The Pleader for Government states that the stitching charges are too high and not in accordance with Government rates. The Government's case was that nothing at all should be paid: vide para 13 of the judgment. But plaintiff adduced evidence that the Rev.Divl.Officer had promised him the payment. No evidence was adduced contra.

3. On the question of interest, the Pleader for Government states that the first demand was on 24-1-1941., The judgment shows it was on 1-7-1938. Even if the Pleader for Government's date is correct the -- difference comes to about Rs 45/-. This appears to be too trivial an amount to be made the subject matter of an appeal to be preferred by the Government which, if lost, would entail costs of at least Rs 60/-.

In my opinion there are no sufficient grounds to impugn the decree of the Munsiff

All enclosures are returned, including the two books.

/True copy/

For Collector. 23.3.44.

9.3.44

9

C. S.

SECY
18 MAR 1944

ASSISTANT SECRETARY
18 MAR 1944

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Received here at 3 H 14 M

0 0 MANGALORE KNA 17 STE 26

SECRETARY REVENUE BOARD MADRAS

REQUEST ORDERS REFERENCE B41/44 9TH MARCH REGARDING

APPEAL PUTTUR MUNSIFFS COURT O S 180/41 ELECTORAL ROLLS

PRINTING CHARGES COLLECTOR

The sequence of entries at the beginning of this telegram is—class of telegram, time handed in serial number (in the case of foreign Telegrams only), office of origin, date, service instructions (if any), and number of words.

This form must accompany any inquiry respecting this telegram.

146 (5173/E-125)—17-11-42—1,00,000 Bks

AS 18/44

AS (LR)

The file was sent to M/1 in camp on 14.3.44. It has not yet been received back

The last date for filing an appeal was reported to be 18.3.44 The local Govt and the Coll did not recommend filing of an appeal. This office took also did not recommend filing of an appeal. The action of the file from M/1 maybe awaited

AS 18/3/44

The case has to be put up as the decree of the Suit was sanctioned by them

It is therefore only formal appeal, viz to say "no appeal is necessary"

No reply of the Coll. seems necessary until the file comes back

KL 18/3/44

Suits – (South Kanara) – Price Petties – O.S. 180/41 – Electoral Rolls, 1937 – Arrears of printing charges – Suit against Govt – Decree partly adverse to Govt – Filing of an appeal – Not necessary – Coll's report – Submitted. Read again G.O. No 2051 Pub (Elections) dept dated 18.9.41. Q

From the Coll of S. Kanara, Ref A3 – 841-44 dated 9.3.44. A with enclos. to Govt vide Q to Coll.

678

Refce No A 841/44-1 dated 20/3/44

Submitted to the Govt

2. The Board agrees with the Coll that no appeal need be filed.

20.3.44

To the Secy to Govt. Pub (Elections) Dept with a printed copy of judgment (2)

Copy to Coll of S. Kanara

Sec.
18 APR 1944
Received..... 1944.

A 1040
8 APR 1944

13

GOVERNMENT OF MADRAS

Registered..... 1944.

Abstract.

SUITS - South Kanara - Puttur District Munsiff's Court - Electoral rolls, 1937 - Arrears of printing charges - Suit filed by the Manager, Harihara Press, Puttur - Filing of appeal - Considered unnecessary. G.O. Communicated.

PUBLIC (ELECTIONS) DEPARTMENT.

G.O.No.1201 (Ms) dated the 15th April 1944.

Read the following papers

G.O.No.2051, Public (Elections), dated 18.9.1941.
From the Board of Revenue, Ref.A.678/44-1 dated 20.3.1944.

ORDER:

The Government agree with the Board of Revenue that no appeal need be filed against the order of the District Munsif Puttur.

2. The Government observe that the decree of the Court was passed on the 23rd December 1943 but the report was received by them only on the 21st March 1944 when the appeal time had already expired. The reason for the delay should be investigated.

(BY ORDER OF HIS EXCELLENCY THE GOVERNOR)

G.W. Priestley,
Chief Secretary to Government.

To the Board of Revenue.
" . " Collector of South Kanara thro' the Board of Revenue
Copy to the Superintendent Government Press (with encls.)

True copy/Forwarded/By Order

T.N. Arunachalam

Superintendent.

R 1010

GOVERNMENT OF MADRAS

Received..... 1944. Registered

Abstract

SUIT - Muts Ramira - Puttur District Munsiff's Court - Electoral rolls, 1937 - Arrears of printing charges - Suit filed by the Manager, Harihara Press, Puttur - filing of appeal - Considered unnecessary.

P.P. 13.4 Submitted at page 3 ante

PUBLIC (ELECTIONS) DEPARTMENT

G.O.No.1201 (MS) Dated the 18th April 1944

Read the following papers

Govt. No.2021 Public (Elections), dated 18.9.1941.

From the Board of Revenue, Nos.X.Ors.44, dated 20.3.1944

ORDER:

The Government agree with the Board of Revenue that no appeal need be filed against the order of the District Munsif Puttur.

2. The Government observe that the decree of the Court was passed on the 23rd December 1943 but the report was received by them only on the 21st March 1944 when the appeal had already expired. The reason for the delay should be investigated.

To the Board of Revenue.

" - " Collector of South Kanara thro' the Board of Revenue

Copy to the Superintendent, Government Press (with circs.)

True copy/Forwarded/By Order

Chief Secretary to Government.

P.W. Priestley

Superintendent

Kan. 18.4. 110 17 05180/41

Suits - (South Kanara) of printing against Municipal Council

Electoral rolls, 1937 - arrears of printing charges -

Suit filed by Manager, Harichara press, pulture - Filing

of appeal considered unnecessary, G.O. communicated

- reasons for delay called for. forwarded with remarks

DESPATCH

MAY 1944

P 1 to 2 Cf — from the Collr. S.K. Letter No Ref A3-841-44 A/ 9.3.44 — Q

P 9 Cf — Telegram from the Collr A/ 18.3.44 — Q

P. 11 Cf — Board's Ref No A 678/44-1 A/ 20.3.44 — Q

P 13 Cf - From public (Elections) Dept. G.O. No (Ms) 1201 A/ 15.4.44

To the Collr on p 15 of ← — Board's Ref No A 678/44-2 A/ 28-4-44 A

PP 15-16 Cf — ~~A Copy of the G.O. intended~~ ~~for the Collr is~~ forwarded to the Collr S.K

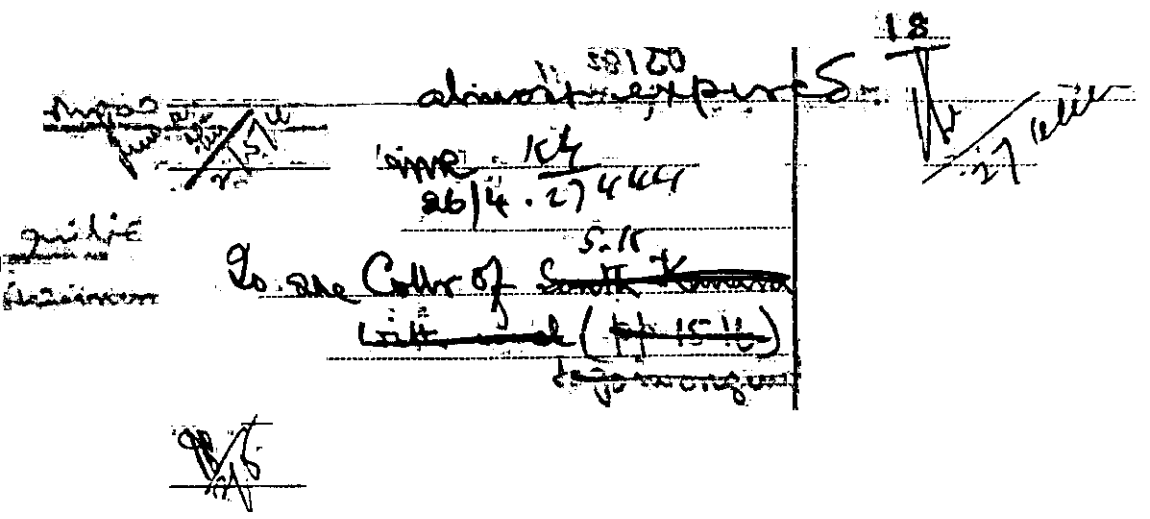
P 13 Cf - 2) ~~His attention is invited to para 2 of the G.O.~~ ~~& He~~ is requested to report why Re allowed

Please bring for work 1st

the P of pulture Govt/G.P. Mangalore to go on ~~dismissing~~

discussing the matter till the appeal time has

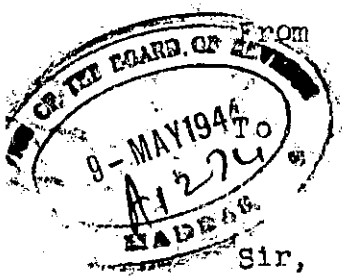
S. file 1C
28/4/44



19

Ref.A3-841-44.

South Kanara Collector's Office,
Mangalore, 6th May 1944.



From

Rao Sahib Sri P. Ramadoss, B.A.
Collector of South Kanara.

To

The Secretary to the
Board of Revenue,
Madras.

A2

Sir,

Suits - South Kanara - Puttur District Munsif's Court - Electoral rolls, 1937 - Arrears of Printing charges - suit filed by Manager, Harihara Press, Puttur - Filing of an appeal - Report submitted. Copies - Papers - enclosed

P17-18C/1 Ref: Board's Rel.A.No.678/44-1, dated 28.4.44.

The Judgment in this case was pronounced on 23.12.1943 and the Pleader for Government who applied for copies of the judgment and the decree was able to submit them to this office on 21.2.44. There were 26 days for filing an appeal when the copies were received from the Pleader for Government, Puttur. The papers were then sent to the Government Pleader, Mangalore for his opinion and got back from him only on 6.3.1944. This delay is due to the fact that this office was closed from 23.2.1944 to 3.3.1944 on account of plague. In the circumstances, the report in the matter could not be submitted earlier. All the Pleaders for Government have been requested not to delay the submission of the copies of judgments and decrees in Civil suits.

For Collector.

7.5.44

18.5 20 E. M. G. Ex.

P13 Cf — From the Govt. G.O. No 1201-Leg/44 dt 15-4-44 — Q
P19 Cf — From the Collr of S.K Letter No A3-841-44 dated 6.5.44 — Q/A

PS(44)

B P. Misc 853 dated 18-5-44

Recorded

MR 2) A copy of the Collr's letter cited above
16/5 submitted to the Govt with reference to para 2 of the G.O. cited above

20 The Collr of S.K (Chief) 16/5/44

copy to the Secy to Govt (Public Elections) with a copy of the Collr's letter with reference to para 2 of the G.O. cited above

16/5/44

B13 Cf

Issue 18/5/44

1 Note file ~~Judgment~~ Appeal time expires 18-3-44
Appeal not recommended

M (after 7 issue proc.)
AS(LR) Suits - (South Kanara) - Dtrc, Puttur - O.S. 180/41 - Electoral Roll 1937 - Arrears of printing charges - Suit against Govt - Decided partly adverse to Govt - Filing of an appeal - Coll's report:-
From the Colr of S. Kanara, Rpt Ats - 8741-44 & 9-3-44.
A678/44
To A.S(LR)

The defence of the suit O.S. No 180/41 on the file of the Dtrc, Puttur was sanctioned in G.O. No 2051 Pub(Elections) dated 8/18/44
The suit was filed by the Hari Hara Press, Puttur against the Govt. The plaintiff (press) claimed Rs 2322-3-8 but he was paid only Rs 1766-12-0, the amount allowed by the Suptt, Govt Press after checking the bills. The Dt. Munsiff has held that the plaintiff should have been told that the Suptt, Govt Press has a right to scrutinise the bills and that final payment would be subject to his approval and that this should have been made part of the contract. Taking the view that the plaintiff can claim that the scrutiny by the Suptt, Govt Press may be tested in Civil Court by means of a suit like this, the Dt. Munsiff allowed certain items and disallowed others and finally decreed that the plaintiff was entitled to Rs 2081-6-0 result is - the Govt will have to pay him the balance Rs 316-10-10 (with interest).

The Pleader doing Govt work, Puttur recommends filing of an appeal by the Govt - vide copy of his letter dated 20.2.44 to the Colr, at p5 of. The G.P., Mangalore however disagrees with the P.G. and concludes there are no sufficient grounds to impugn the decree of the Dt. Munsif. On the question of award of interest from 1.7.1938 the Pleader doing Govt work, Puttur says that the award of interest from that date is

unwarranted as the first demand for interest was made on 24.1.1941. But the Dy.C. Mangalore says that the judgment shows that the first demand was made on 1.7.1938 and that even if the P.G's date is correct the difference comes to about Rs 45/- which appears to be too trivial an amount to be made the subject matter of an appeal to be preferred by the Govt which, if lost, would entail costs of at least Rs 60/-. The Coll. agrees with the Dy.C., Mangalore that the reasoning in the judgment cannot be attacked and that no appeal need be filed. The Board may agree and submit the papers to the Govt, marking copy sent to the Coll. Two main grounds on which the Dist Munsif based his decision are:— (a) the lower limit which the bills were to be countersigned by the S.E.V. and that the payment was to be subject to his final approval were not adhered to pending the receipt of a formal complaint and (b) the local officers had certified that the claim was correct and that the work was satisfactory. The C.S. report shows that these grounds cannot be challenged. D.M's judgt is reasonable and may be upheld.

P7(2)
M.M. p7 f.

No draft appeal memo has also been received
A

Dy.C. Mangalore's letter dated 13.3.44 was received on 14.3.44

p.3 para 6 of (H)

Boundary of (H)

Proceedings of I.M.D.

14.3.44

15/3/44

SECY. 1.M.D. 21.3.1944

To A.S. (L.R.)

Draft submitted.

20.3.44

A.S. (L.R.)

A678

pp 11 cf. 2 rules as Boards Ref A 678/44-1 of 20.3.44

pp 13 cf. A 1040 from Public (Elections) dept G.O. No (MS) 1291 dated 15.4.44

20 A.S (L.R)

The Govt have agreed that no appeal needs be filed against H. A.M.C's order. With reference to para 2 of the G.O it is submitted that the Collr's report was received in the Bd's office on 11.3.44 just one week prior to the date (18.3.44) on which the appeal time expired. The office note was put up on 13.3.44 and was received back with orders on 18.3.44 (Saturday). The draft to Govt was submitted on 20.3.44. It was clear that there was no case for filing an appeal. The local G.O and the Collr did not recommend filing of an appeal and only the formal approval of the Govt for not filing an appeal was required. In the circumstances no special instructions to the Collr seem necessary. The G.O may be simply forwarded to the Collr leaving him to take any action he considers necessary.

pp 1-8 cf

The P.G's & G.P's Opinions are dated 20.2.44 & 6.3.44 resply - pp 5 & 7 cf

pp 1-2 cf

pp 11 cf

Draft submitted on p 14 cf

MR 21.4 KG 21/4/44

I am afraid file may be app

Early Receipt

21-4-44

But it is proper to ask the Collr why he allowed the G.P and then to go on discussing the matter till appeal time had almost expired.

20 A.S (L.R) Draft Submitted

MR 26/4 KG 27/4/44

27/4/44

EECY. 25 APR 1944

ASSISTANT SECRETARY. 25 APR 1944

Draft 26/4

A = 678

~~From the Board of~~ No A/678/44-2M 28.4.44. pp 17-18 Cf

From the Coll of S.K. Ref A3-841-44 dated 6.5.44. pp 19-20 Cf

To A.S (L.R.)

A.S (L.R.)

The Coll in his letter cited above states that the P.Cs have been asked not to delay the submission of Copies of judgments and decrees the delay is also due to the closure of the Coll's office from 23.2.1944 to 3.3.44 on account of plague. A Copy of the Coll's letter may be submitted to the Govt with ref to para 2 of letter under ref p 18 Cf. P19 Cf

MR 12/5 13/5/44

From X on p 3 N.T

M--1

It is mean the Coll to know the 13 V cases name of plaguiratis. Nor is it time. But in time more have to be done now; we have stirred up Mr Ramadossi.

ASSISTANT SECRETARY. CT 5 MAY 1944

SECT. 15 MAY 1944

To A 3(L.R.)

Draft Submitted as p 20 Cf

15/5

MR 16/5 16/5/44

M V Iyer